

**REPORT OF THE WESTERLY TOWN
ADVISORY CHARTER REVISION COMMISSION**

**WESTERLY, RI
JULY 11, 2016**

Westerly Town Charter

Revision Commission of 2016

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WESTERLY TOWN CHARTER REVISION COMMISSION

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FINAL REPORT

I. EXECUTIVE SUMMARY

The Westerly Town Council established this advisory Charter Revision Commission (the "Commission") in February, 2016 to review the existing Westerly Town Charter (the "WTC") in its entirety and to report back to Council with any recommendations for revisions or amendments within four months of said appointment. In doing so the Commission analyzed every part of present Charter, researched the history, intent and purpose behind each provision, considered public comment, and considered the effect of any changes recommended. The intent of the Commission was to recommend changes that will provide efficient governing and that would be responsive to the citizens of Westerly.

The Commission met twenty (20) times over the course of twenty(20) weeks, including two 2-hour public hearings held on Saturdays. The Commission felt Saturdays would be more convenient for the public. Comments were also solicited from anyone, including Council members and town staff, through the Town Clerk's office via her e-mail. The first two meetings the Commission held were dedicated to a complete reading of the present Charter and notating every area we wished to discuss during our future meetings. Each member was asked to make a list of their first five concerns. A list of suggestions from Town staff was also provided by the Town Clerk. Those concerns were discussed and acted upon. The Commission then went through the present WTC to assure all issues would be addressed. Public input was also considered in the discussions. The entire WTC was scrutinized thoroughly and was the subject of careful debate and discussion.

Many parts of the WTC were found to be effective and did not need to be changed. The Commission discussed and offered changes to many other parts of the WTC. Any changes to the WTC were designed to fit into our mission of creating a more efficient and transparent government that would be responsive to the citizens of Westerly. We realized there would be many items to vote on in the November 2016 ballot, and it would be up to the electorate to make the final decision on each issue.

II. COMMISSION DISCUSSIONS AND DECISIONS

TERMS OF COUNCIL MEMBERS

The Commission discussed the terms of the Town Council as determined in the present WTC.

2-1-1 The Council shall consist of seven members elected in the manner provided in Article 5, Chapter 1 of this Charter, to serve for a term of two (2) years and thereafter until their successors are elected and qualified. They shall be elected at large.

After careful consideration, contemplation, research and discussion the Commission recommends the following:

The Councilors be elected for four (4) year staggered terms and to serve no more than two (2) consecutive terms. The Council must reorganize every two years with the election of the Council President.

After consultation with the Town Solicitor and discussion with the head of Town Elections, it was discussed and decided that the Commission should expand on the above and include the details of how the staggered terms must be initiated. The following motion was passed unanimously at a later meeting:

To amend the motion passed on March 9, 2016, 2-1-1 Town Council Number, Selection, Term to add the words: Beginning with the election in 2018, the four candidates with the highest number of votes shall be awarded four year terms and the three candidates with the next highest number of votes shall be awarded two year terms. In the case that candidates in the fourth and fifth place are tied, both shall be awarded two year terms. In all subsequent elections members shall be elected to four year terms

Commission Commentary

This decision came after a broader discussion of the structure of the Town Council and methods of election. Careful consideration was given to several alternate types of government: Mayor-Council, Council-elected Council President, and the present structure of Council –elected Council President. The Commission also considered the length of terms and whether all should be elected at the same time.

One of the considerations was whether the other methods of government would make the government more responsive to the citizens of Westerly. It was determined that while having one official held responsible for all actions could be tempting, it would not necessarily make for a more responsive government.

Another consideration was the number of members comprising the Town Council. The discussion centered on the availability of candidates to fill the open Council positions. The Commission met with the Deputy Town Clerk/Board of Canvassers Clerk. She outlined how the electoral process works in Westerly. Another question was whether Westerly should switch to a district (ward) system in which each elected Council member would represent a geographic area approximately equal in population. It was explained that we would have to wait for a formula based on a census. The next Census is in 2020 and the numbers would not be ready until 2021. The Commission determined that the staggered election would solve the perceived

problem of limited number of candidates. Therefore, the Commission decided the 7-member Council was a viable number and should not be changed. The members also felt a change to a district division was not necessary at this time and could be taken up with the next Charter Commission if they deem it necessary to restructure the Council elections.

COUNCIL VACANCIES

The Commission discussed the method of filling vacancies on the Council should they occur.

2-1-1 Vacancies.

Whenever a vacancy shall occur in the membership of the Council by death, removal out of town, resignation, or by neglect or refusal to qualify, or for any other cause, the Council may fill the same until the next regular election of such officers, and whenever from any cause there shall be vacancies in the Council, so that there shall not be sufficient members to form a quorum, the Town Clerk shall call a special election in the manner provided by law, at which election such vacancies shall be filled by a vote of the plurality of the electors voting at said special election.

There was discussion about filling vacancies in the Town Council, especially in light of the change from 2-year terms to 4-year terms with staggered elections. There was a concern that continuity was needed to maintain efficient Town government.

After careful consideration, contemplation, research and discussion the Commission recommends this section be amended to read as follows:

In the event of an early vacancy, the Council will appoint an individual to fill the vacancy for the unexpired portion of the four-year term until the next general election.

RECALL OF ELECTED OFFICIALS

The Commission discussed in detail the need for a recall provision. There is no such provision currently in the WTC. A previous Charter Revision Commission (2008) had recommended a recall provision. It was never placed on the ballot for voter consideration. This current Commission considered it important for the citizens to have the ability to recall elected officials for serious infractions. One of the issues discussed was whether 100 signatures were sufficient for initiating a recall. The conclusion was: 100 signatures are reasonable since it only starts the recall process. The Commission felt recall should be difficult but not impossible. After much discussion and careful consideration it decided to recommend the following be inserted into the WTC:

The Commission approved unanimously that the grounds for recall should be violations of both the Westerly Code of Ethics and the State of Rhode Island Code of Ethics.:

Motion: to place in the Recall section grounds for recall to include violations of the Code of Ethics of the State of Rhode Island and the Town of Westerly.

This motion was approved unanimously.

At a later meeting the following motion was approved unanimously:

To amend section 5-1-4 Recall Elections (passed at our April 13, 2016 meeting) to add “Grounds for recall include violation of the Westerly Town Charter.”

Rights of the Electorate Issues

Officials subject to recall.

Any member of the Town Council or School Committee may be removed from office by recall, provided that recall may not be initiated during the first four (4) months or the last eight (8) months of the term of the incumbent. The procedure to accomplish recall shall be as follows.

Initiation of recall.

One hundred (100) qualified electors of Westerly shall file a declaration of intent to petition for recall with the Town Clerk and shall name the elected official who those electors desire to be recalled.

Collection of recall petition signatures.

- (a) Within forty-five (45) days of the presentation of said declaration to the Town Clerk, a written petition demanding the removal of said official shall be filed with the Town Clerk. Said petition shall include the signatures of not less than thirty-five percent (35%) of the number of qualified Town electors who voted at the most recent general election.**
- (b) Said petition, prior to being circulated for signatures, shall be filed with the Town Clerk who shall attest to the filing and affix the seal of the Town.**
- (c) Said petition shall include the name and place of residence of each signer.**
- (d) The signatures on any recall petition provided for in this section may be on separate paper, but to each paper there shall be attached a**

signed statement of the circulator thereof, who shall state therein under sworn oath and penalty of perjury, that each signature appended to such paper was made in the presence of the circulator. All such papers comprising a recall petition may be bound together or filed as separate papers at different times, provided, however, that all such separate papers must be filed within the time limit set herein.

Verification of recall petition signatures.

The Town Clerk shall, within five days of the filing of said recall petition, refer said recall petition to the Board of Canvassers, which shall, within ten days from the date of receipt of said petition from the Town Clerk, determine the sufficiency thereof and certify the results to the Town Clerk.

Schedule of recall election.

- (a) The Town Clerk, upon receiving the certified results of said petition from the Board of Canvassers, shall schedule a recall election to be held not less than fifty (50) nor more than sixty-five (65) days following the date on which the Board of Canvassers certified the signatures to be sufficient.
- (b) The Town Clerk shall publish more than thirty (30) days prior to the recall election, in a newspaper having general circulation in the Town, and on the Town's publicly accessible web site, notification of the recall election, the name of the official subject to the recall election, and a true copy of the ballot, which shall be used in said recall election.

Conduct of recall election.

- a) The ballot prepared for the recall election shall include the name and office of the person for whom a petition with sufficient signatures has been filed and shall contain the question: "Shall (name of person) be removed from the office of (name of office)?" And immediately following said question there shall be printed upon the ballot "YES" "NO"
- b) If two-thirds of the votes cast on the question are in the affirmative, the person whose removal is affirmed by that vote shall be deemed to have been removed from office as of the date of certification of the results by the Board of Canvassers.

Ordinances.

The Town Council may, through ordinance, carry out provisions of this section not inconsistent herewith.

Re-Appointments

No person who has been recalled from elected office or who

has resigned from office while recall proceedings were pending against such person shall be appointed to any [Town] office or position of employment within two years after such recall or such resignation.

TERM LIMITS, ZONING AND PLANNING BOARDS

In keeping with the Commission's feeling that terms on the Council and various boards and committees should be limited, a discussion occurred as to whether the Zoning and Planning Boards should have term limits. It is beyond our ability to limit the length of the terms, as that is determined by the State. Zoning and Planning Board members serve five (5) year terms. However, it was felt a limit of two terms was a reasonable limit. This would allow for enough continuity to understand long term issues yet provide for fresh ideas to be considered. After much discussion the Commission recommends the following be added to the WTC:

Planning Board and Zoning Board of Review members are not to serve more than two (2) consecutive terms.

ETHICS

The Commission discussed in depth the need for a general code of ethics to be placed in the WTC. Much of the discussion centered on how much detail should be in the code of ethics. Since there presently is no code of ethics in the WTC, it was decided it should be inserted as a preamble. There are three sections in the WTC addressing ethics to some degree, but the Commission wanted the Preamble to apply to all elected and appointed officials, including the School Committee. There was some concern that this was addressed elsewhere in the Charter and was not needed. After much discussion and consideration the Commission recommended by a 7-2 vote to place the following Preamble into the WTC:

Code of Ethics

Nature of Offense or Offenses – Conduct violative of this article is action or behavior in an official capacity which, in dishonoring or disgracing the person as a Town official, seriously compromises the official character as a public official or action or behavior in an unofficial or private capacity which, in honoring or disgracing the official personally, seriously compromises the person's standing as a public official. There are certain moral attributes common to the ideal of a public official- a lack of which is indicated by acts of dishonesty, unfair dealing, indecency, indecorum, lawlessness, injustice, drug [or] alcohol abuse, fraternization with subordinates or cruelty. The public official must be mindful of even the appearance of a conflict of interest in his official capacity. The Town official will refrain from interfering with Town employees in the performance of

their duties and responsibilities. Not everyone is or can be expected to meet unrealistically high moral standards but there is a limit of tolerance based on the usual and customary behavior expected of a public official. *This article includes acts made punishable by law such as indictment for a felony, conviction of a misdemeanor or finding of probable cause of violation of the Code of Ethics made by the Rhode Island Ethics Commission.*

The italicized part of the above statement was approved unanimously.

At a later Commission meeting there was discussion concerning adding to the above Code of Ethics to include more specifics. The Commission spent much time deciding which items should be included. The discussion led to a lengthy list that was considered important enough to be integrated with the above recommendation:

Public office as a public trust.

Public servants should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.

1. *Pursuit of public interest.* In treating their office as public trust, public servants, whatever their role, should diligently and in good faith pursue the public interest to the best of their ability and subordinate self-interest to the public good.

Ensuring public respect.

In treating their office as a public trust, public servants should act so as to ensure the reality and perception that government is conducted according to the highest principles of democracy with honesty, integrity and a concern for justice and is, therefore, worthy of respect, trust and support.

a. *Avoiding impropriety.* Public servants should maintain public trust in government by avoiding acts which place personal or private interests above pursuit of the public interest.

b. *Avoiding appearances of impropriety.* Public servants should avoid conduct which tends to undermine public trust by creating in the minds of reasonable impartial observers the perception that government office has been used improperly.

Personal gain from the performance of public duties

Except for official compensation, public servants should neither seek nor accept any form of payment, gratuity or other personal benefit relating to the performance of their responsibilities.

a. *Performance of duty.* Public servants should neither seek nor accept any form of personal benefit for the performance of their duty to deal with a matter promptly, efficiently or fairly or for the exercise of appropriate but discretionary representational authority.

b. *Accessibility of elected officials.* Elected officials should assure that constituents and others who may be affected by public policies have a fair and equal opportunity to express their concerns, grievances and ideas without regard to their willingness or ability to provide personal benefits or political support to the officials.

c. Personal benefits should never appear to be necessary. Public servants should not engage in any conduct which could create in the mind of a reasonable observer the belief that persons "I receive better or different service if they provide personal benefits or political support to a government official.

Use of public employees for personal benefit.

Public servants should not use public employees on government time for private benefit.

a. Subordinate's responsibility to say no. Public employees should refuse to perform improper personal tasks on government time.

Use of government property for personal benefit.

A public servant should not use government property or facilities for private benefit.

Use of title or prestige for personal benefit.

Public servants should not use, nor allow others to use, the authority, title or prestige of public office for the attainment of private financial, social or political benefits in any manner that is inconsistent with public interests.

a. Use for commercial purposes. Public servants should not permit their names or official titles to be used by a nonpublic enterprise in any manner which would lead reasonable observers to believe that those who deal with the enterprise may receive special treatment or advantages as a result of a formal association with the public servant.

b. Exploitative fees. The present or former holder of a high public office which carries with it substantial prestige should not appear to sell the stature of the office by accepting sums that create a general perception that the office has been exploited for private gain.

c. Use for private advantage. Public servants should not use official letterhead or refer to their public position as a means of inducing or intimidating persons to resolve disputes more favorably, provide preferential treatment, or give free tickets, discounts, favors or other advantages.

Principle of independent objective judgment.

Public servants should employ independent objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and both real and apparent improper influences.

Conflict of interest.

Public servants should safeguard their ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial, social and political relationships and transactions which may compromise or give the appearance of compromising their objectivity, independence or honesty.

a. Disclosure of financial conflicts of interest. Public servants subject to disclosure of financial interest requirements should comply with both the letter and spirit of the regulations and not seek to circumvent them by evasion strategies or legalisms.

b. Avoidance of financial conflicts. Despite laws that permit financial conflicts, public servants should make all reasonable efforts to avoid transactions which may compromise or give the appearance of compromising their objectivity, independence or honesty.

c. *Benefits intended to influence.* Public servants should not accept benefits of any sort under circumstances in which it could be reasonably inferred that the benefit was intended to influence them in the performance of their public responsibilities.

d. *Duty to report improper offers.* When the possibility of improper motive requires refusal of a gratuity, the official should firmly warn the person about bribery laws and improper influence; if the attempt to unduly influence is clear, the matter should be reported to law enforcement authorities.

e. *Appearance of undue influence.* Regardless of the actual intent of the provider or recipient, public servants should not accept benefits of any sort under circumstances which would create in the mind of a reasonable observer the belief the benefit may influence them in the performance of their public responsibilities.

f. *Earned income from persons directly affected by actions or decisions.* Public servants should avoid engaging in financial relationships that might reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are likely to be affected directly by their actions or decisions.

g. *Gratuities from persons directly affected by actions or decisions.* Public servants should refuse to accept any gratuities which may reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are likely to be affected directly by their actions or decisions.

h. *Campaign contributions from persons directly affected by decisions.* Public servants should be cautious about accepting campaign contributions which may reasonably be construed to affect their judgment or actions, especially from lobbyists or other persons who are likely to be affected directly by their decisions.

Recusal and disqualification.

Public servants should not take any public action under circumstances where, due to a conflict in interest, they are not certain that they can do so fairly and objectively.

Bias or favoritism.

Public servants should exercise the powers and prerogatives of office fairly and without prejudice or favoritism. It is improper to use public authority to reward relatives, friends or political supporters or to hinder or punish enemies and opponents.

Intervening on behalf of constituents and friends.

Public officials should be extremely cautious about directly or indirectly intervening with normal decision making, investigatory or adjudicative processes of governmental bodies on behalf of constituents or friends since such intervention can threaten the ability of government administrators to exercise independent objective judgment on the merits.

a. *General rule.* Generally, intervention on behalf of constituents or friends is proper only if it is strictly limited to assuring fairness of the procedures and the intervener consciously avoids seeking to unduly influence the decision making process. Those who intervene should firmly, explicitly and unambiguously convey their limited purposes to reduce the possibility of direct or indirect pressure on administrators which could reasonably appear to influence the substantive decision.

Principle of accountability.

Public servants should ensure that government is conducted openly, efficiently,

equitably and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.

1. *Oversight.* Public servants should assure that those to whom they have delegated public power, including their staffs and administrative agencies, carry out their responsibilities efficiently, equitably and ethically.

2. *Openness.* Public servants should exercise the authority of their offices openly so that the public is informed about governmental decisions and the citizenry can hold them accountable for their actions.

3. *Duty to improve the system.* Public servants who believe that a law or policy is not achieving its intended purpose, is creating unintended harms, or is wasteful or inefficient, should take affirmative steps to improve procedures in a way that will increase the fairness and quality of government services and assure that policies are implemented equitably, efficiently and economically.

a. *Making changes.* Public servants should take whatever actions they can to correct problems, streamline procedures and improve services. Where desirable changes exceed authority, public servants should promptly and forcefully recommend reform to the appropriate person or body.

The above motion was approved unanimously. While this is something entirely new to the WTC, it was felt by the Commission it was very important to be included in the working of the Town government. The decision was also made to place this at the start of the WTC under the title "Code of Ethics."

A motion was made and seconded **to integrate this text with the previously recommended text to retitle from "Preamble" to "Code of Ethics."**

This motion was approved unanimously.

After consultation with the Town Solicitor at a subsequent Commission meeting, the above Ethics motion was reconsidered. The Solicitor pointed out that some of the wording was vague and may not hold up in court. There was also no enforcement mechanisms included. The Commission considered this carefully and, with the limited time available to us, realized we would not be able to build this into an effective part of the Charter. Therefore, the following motion to rescind this was approved unanimously:

To rescind the motion passed at our April 13, 2016 meeting concerning the Code of Conduct (ethics).

Members of the Commission still considered the development of an enforceable Code of Ethics was needed for the Town of Westerly. It was decided that the Town Council could do this by ordinance. That would also allow them to add to it more easily in the future. However, the Commission wanted to assure this would be done as soon as possible. Therefore, the following motion was approved unanimously:

To include in the Westerly Town Charter to mandate that the Town Council create by ordinance, no later than July 1, 2017, a town-wide code of ethics that applies to all elected and appointed officials, and employees if necessary, as well as an

Ethics Commission whose principal duties shall be to receive and hear complaints and enforce the provisions of the ordinance.

It was felt that the section rescinded would serve as a good starting point for the Town Council to begin to comply with this requirement. The Commission decided to leave it in the Report of the Commission for future reference. All other references to a Code of Ethics recommended by the Commission were not removed because they would apply once the mechanisms were set up by July 1, 2017.

It was also recommended that **section 2-1-13 Code of Ethic be added under the School Department as Section 11.1.8 with the amendment "...elected members of the School Committee shall become familiar...."** And the **elimination of the last sentence: "The Town Council shall also ensure that all persons appointed to Town Boards and Commissions shall become familiar with these standards during their tenure."**

There was some consideration whether these ethics statements should also be applied to Town employees. It was explained that Town employees may be terminated if they violate the employee handbook which is signed at the time of their hiring. Therefore, this was not an issue that had to be addressed by the Commission.

The Committee thought the ethics topic in government was very important to all elected and appointed officials, and they should be bound by such a code. It was agreed unanimously to recommend the following be included in the WTC:

There should be an attestation signed at the time of the Oath of Office to include the State of Rhode Island Code of Ethics and the Town of Westerly Public Officials Code of Conduct.

FINANCE DEPARTMENT

The structuring of the Finance Department was both recommended by Town staff and discussed by the Commission. The staff recommendations were as follows:

ARTICLE VII FINANCE DEPARTMENT

In the following, all underlined sections are recommendations of the Town staff. The other portions already exist in the WTC. Some of the existing verbiage would be nullified if others were approved.

Chapter I

7-1-1 Organization.

There shall be a Department of Finance, the head of which shall be the Director of

Finance, who shall be the *Town Manager* or his designee. The Department shall be organized into as many divisions or offices consistent with the provisions of this Charter as may be deemed necessary by the Council on recommendation of the Town Manager. The Town Manager shall appoint the head of such divisions as may be created, except that the chief financial officer of the School Department shall be appointed by the Superintendent of Schools. The chief financial officer of the School department shall provide all school department financial information as requested by the Director of Finance of the Town.

The Department of Finance shall consist of the Chief Financial Officer, who shall be the department head, and such other personnel as deemed necessary by the Town Manager and Superintendent of Schools.

The Town Manager and the Superintendent of Schools shall jointly hire the Chief Financial Officer, who shall possess the appropriate practical and technical qualifications for the office. The Chief Financial Officer shall be responsible to the Town Manager and the Superintendent of Schools and shall supervise the Department of Finance. The Chief Financial Officer shall also have the additional responsibility of coordinating all purchases for the Town, including those of the Schools, and reviewing all fiscal requests to determine budgetary compliance. At least once each month, the Chief Financial Officer shall prepare and present financial reports to the Town Council and School Committee, as each body shall deem necessary to understand their respective budgets.

7 1 2 Qualifications.

The Director of Finance shall have knowledge of municipal accounting and taxation and shall have had experience in budgeting and financial control.

7-1-3 Salary of Director.

The Director of Finance Chief Financial Officer shall receive such annual salary as may be recommended by the Town Manager and Superintendent of Schools and be set by a vote of the Town Council and the School Committee.

7-1-4 Powers and Duties.

The Director of Finance shall be the Town Treasurer and may be the Tax-Collector subject to the provisions of this Charter and ordinances consistent there in. The Town Treasurer and Tax-Collector are vested with and shall have all powers and duties now and hereafter vested by law in Town Treasurers and Tax Collectors and shall have charge of the administration of the financial affairs of the Town. The Director of Finance shall be the Town Treasurer. Subject to the approval of the Town Manager, he or she shall:

- (a) Appoint and may remove a Purchasing Agent.
- (b) Appoint and may remove a Tax Collector.
- (c) May perform the duties of any office under his or her supervision, except that of the Tax Collector, and may consolidate one or more such offices under one person.

The Office of the Finance Director **Chief Financial Officer** shall:

- a. Maintain a general accounting system for the *Town* Government and each of its offices, departments and agencies.
- b. Supervise and be responsible for the disbursement of all monies and have control in all expenditures to ensure that budget allotments are not exceeded.
- c. Keep separate accounts for the various departments, including the Westerly School Department, offices and divisions for which a separate allocation is made in the Town Budget, each of which accounts shall show the amount of funds appropriated, the amounts paid therefrom, the unpaid obligations against it, and the unencumbered balance. (2007)
- d. Be responsible for maintaining all budgets, accounts and financial records of the Town, including those of the Schools.
- e. Have administrative oversight over all budget accounts and shall be responsible for the disbursement of all monies therefrom.
- f. Keep records of all financial transactions for the Town, including those of the Schools, and shall perform such other duties as deemed necessary by the Town Manager or the Superintendent of Schools for the sound administration of their respective budgets.
- g. .(Q) Notwithstanding the foregoing, both the Town Council and the School Committee shall at all times remain in control of their respective budgets. Additionally, in no way shall the Department of Finance or any provision of this Charter be deemed to abrogate the ability of the Town Council or the School Committee to maintain separate administrative oversight of its respective budget.
- h. Collect and receive all taxes and special assessments due and payable to the Town. He shall also receive all license fees, rents, funds, money receivable by the Town from the State and/or Federal Government, and from courts and from any department, office and agency of the Town, except as otherwise provided in this chapter.
- i. Prepare a Monthly Statement of all receipts and disbursements in sufficient detail to show the exact cash position and unencumbered position of the offices, departments, including the Westerly School Department, and agencies of the Town and to prepare as of the end of the fiscal year a complete financial statement and report, which report shall be deemed a public record. (2007)
- j. Have custody of all invested funds of the Town Government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the Town and the receipt and delivery of Town bonds and notes for transfer, registration or exchange.

- k. Prescribe uniform forms of receipts, vouchers, bills and claims to be used by all departments, offices and agencies of the Town, including the School Department and the Department of Public Works.
- l. Deposit all funds coming into his hands forthwith in such depositories as may be designated by resolution of the Council, subject to the requirements of law as to surety and payment of interest on deposits, but all such interest shall be the property of the Town and shall be accounted for and credited to the proper account.
- m. Receive delinquent installments. No amount received by the Tax Collector for taxes shall be applied to any current installment until all previous installments of taxes have been paid.
- n. Upon being sworn into office, give bond to the Town Clerk with sufficient surety in such amount as the Council may prescribe for the faithful performance of the duties of his office.

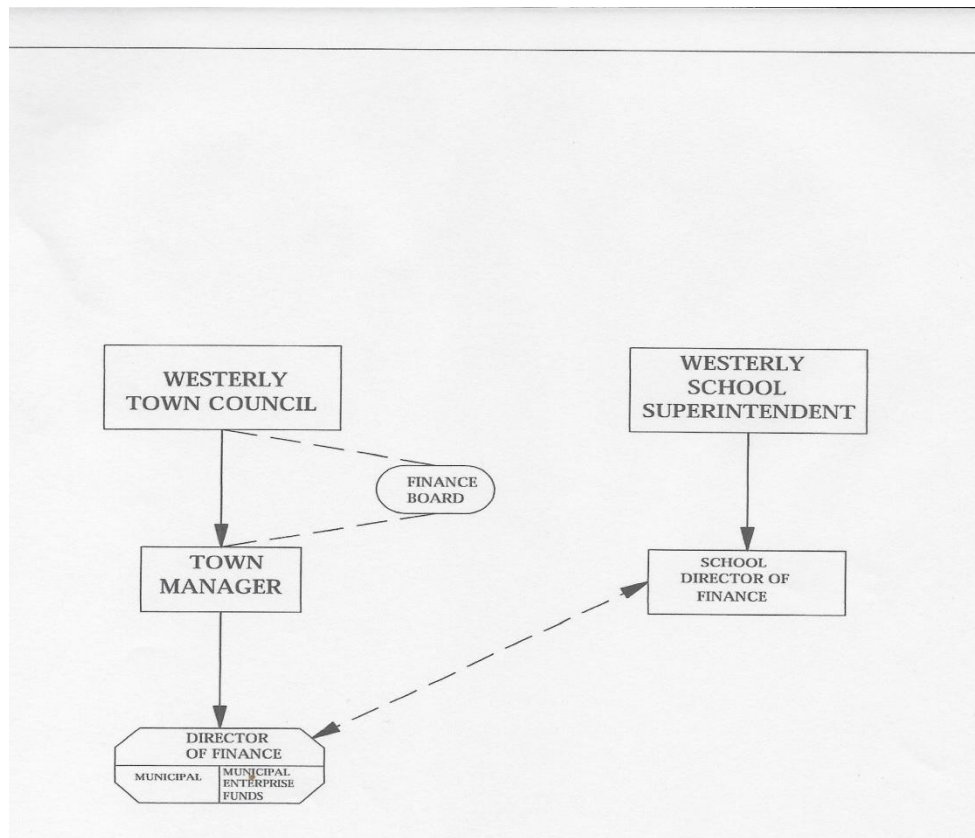
It was the feeling of the Commission that the Finance Director should report directly to the Town Manager, while the School Financial Director would assist the School Superintendent and provide input to the Town Financial Director. The Commission felt it important that one individual have the oversight of the overall financial operations. It was also important to maintain and promote integration between school and town finance individuals in order to insure successful and timely completions of annual external audits; maintain high credit ratings; to foster communications, to instill collaboration on budgeting reviews of operational performance; to allow cross-training opportunities for greater efficiency; to provide financial management through formalized policies. Discussion also centered on removing the wording "...who shall be the Town Manager or his designee." After much discussion and consideration, the Commission voted unanimously to recommend section "7-1-1 Organization" be revised.

The Commission also discussed the accounting procedures for the enterprise funds. The use of cost accounting and double-entry accrual accounting was considered important because these should be self-funding and there should be a visible accounting of all expenses and income. There was some consideration that this might not be needed and it should be the Town Council or the Town Manager as the responsible parties. However, the majority of the Commission felt this should be in the Charter.

Motion by Mr. Angelo, Seconded by Ms. Rossomando, and approved by the Commission to revise 7-1-1: **"there shall be a Department of Finance, the head of which shall be the [Municipal] Director of Finance, who shall report to the Town Manager. The Department shall be organized in as many divisions or offices consistent with the provisions of this Charter as may be deemed necessary by the Council on recommendation of the Town Manager. The Town Manager shall appoint the head of such divisions as may be created, except that the Director of Finance of the School Department shall be appointed by the Superintendent of Schools. The Director of Finance of the School Department shall provide all**

School Department financial information as requested by the Director of Finance of the Town. The municipal Director of Finance shall be responsible for the integration of the Town's municipal budget with the School Department's budget in order to produce a combined comprehensive, unified and complete master budget to the Town Manager."

Flowchart, Finance Department



For purposes of clarification, please note that the terms "Finance Director" and "Director of Finance" are used synonymously in this narrative. The Director of Finance is the municipal director as noted in the narrative.

The Commission considered adding qualifications for the Director of Finance, taking into consideration that such qualifications could limit the field of candidates for the position. Some town charters require a related degree for all candidates. It was also discussed what specific qualifications should be specified in the Town Charter. The Commission recommended unanimously the following revision to 7-1-2 Qualifications be placed in the WTC:

The Director of Finance shall have at minimum a bachelor's degree in business, finance or accounting and shall have a working knowledge of municipal and school accounting and taxation and shall have had experience in budgeting and financial control.

Since it was agreed that the Town Manager should determine the salary of the Director of Finance, section 7-1-3 was recommended to be removed from the WTC.

It was also voted unanimously to remove 7-1-3 Salary of Director

Discussion was held regarding section 7-1-4 Powers and Duties. After much consideration it was decided unanimously to change the WTC as follows:

Remove the current section 7-1-4 and replace it as 7-1-3 with the text: The Director of Finance shall be the Town Treasurer. Subject to the approval of the Town Manager, he or she shall: (a) appoint and may remove a Purchasing agent (b) appoint and may remove a Tax Collector [and] (c) may perform the duties of any office under his or her supervision, except the Tax Collector, and may consolidate one or more of such offices under one person.

Considering the changes recommended by the Commission, the rest of Article 7 was voted unanimously to be changed as follows:

, to insert a revised 7-1-4 with the title "Office of the Director of Finance and the text "the Office of the Finance Director shall:

- (a) maintain a general accounting system for the Town government and each of its offices, departments and agencies**
- (b) supervise and be responsible for the disbursement of all monies and have control in all expenditures to ensure that budget allotments are not exceeded,**
- (c) keep separate accounts for the various departments, offices and divisions for which a separate allocation is made in the Town Budget, each of which accounts shall show the amount of funds appropriated, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance,**
- (d) notwithstanding the foregoing, both the Town Council and the School Committee shall at all times remain in control of their respective budgets. Additionally, in no way shall the Department of Finance or any provision of this Charter be deemed to abrogate the ability of the Town Council or the School Committee to maintain separate administrative oversight of its respective budget,**
- (e) collect and receive all taxes and special assessments due and payable to the Town. He shall also receive: all license fees, rents, funds, money receivable by the**

Town from the State and/or Federal Government, and from courts and from any department, office and agency of the Town, except as otherwise provided in this chapter,

- (f) prepare a Monthly Statement of all receipts and disbursements in sufficient detail to show the exact cash position and unencumbered position of the offices, departments, including the Westerly School Department, and agencies of the Town and to prepare as of the end of the fiscal year a complete financial statement and report, which report shall be deemed a public record,
- (g) have custody of all invested funds of the Town Government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the Town and the receipt and delivery of Town bonds and notes for transfer, registration or exchange,
- (h) prescribe uniform forms of receipts, vouchers, bills and claims to be used by all departments, offices and agencies of the Town, including the School Department and the Department of Public Works,
- (i) deposit all funds coming into his hands forthwith in such depositories as may be designated by resolution of the Council, subject to the requirements of law as to surety and payment of interest on deposits, but all such interest shall be the property of the Town and shall be accounted for and credited to the proper account,
- (j) receive delinquent installments, but no amount received by the Tax Collector for all taxes shall be applied to any current installment until all previous installments of taxes have been paid
- (k) upon being sworn into office, give bond to the Town Clerk with sufficient surety in such amount as the Council may prescribe for the faithful performance of the duties of his office.”
- (l)

PLANNING AND ZONING

DEPARTMENT OF DEVELOPMENT SERVICES

The Commission discussed the composition of the Planning Board. There was concern over the number of members serving. Historically there were five members, which is the State minimum. There are now seven members. This came about because of the removal of a member and then reappointment after a legal challenge. Part of the discussion was whether the Charter was the proper place to determine this or should it be handled through ordinance. After much discussion the Commission decided by a 7-2 vote to recommend the following change to the composition of the Planning Board:

...to revise 12-1-1 Planning Board as “there shall be a Planning Board of five members and one alternate whose organization, powers and duties shall be defined by ordinance.”

The question of how to achieve this was discussed. The Commission felt the best way to bring the numbers down to five was through attrition. *After the passing of this motion we were informed by the Town Solicitor that the Commission has no jurisdiction over the number of members on the Planning Board. However, the members thought it important enough to at least leave in this report for reference.* Another point of discussion was whether we could place restrictions on who could qualify to serve on Planning and Zoning. Upon advisement from the Town Solicitor, we determined we had no authority to place restrictions on who could be appointed to these positions. If there were conflicts of interest the individuals would have to recuse themselves from participating during the conflicted issue.

In discussing 12-4-1, Director of Development Services, the question was whether to place qualifications in the position’s job description. While some felt the position was important enough to have qualifications in the Charter, others felt the details should be left to Human Services and the Town Manager. There was also compliance with the Equal Employment Opportunity (EEO) to be considered. A motion to place qualifications for the position of Director of Development Services was defeated by a 2-7 vote.

Staff recommendations to the Charter Commission included the establishment of a Department of Development Services which included the Director of Development services. This was to be included as Chapter IV, 12-4-1 through 12-4-5. The recommendation was to eliminate part (d) of 12-4-5. That will be indicated as italicized. All underlined parts are new while those presently existing are not underlined and will remain.

Chapter IV **Department of Development Services**

12-4-1 Director of Development Services

There shall be a chief of the Department of Development Services who shall be the Director of Development Services and who shall be appointed by and report directly to the Town Manager. The Director shall be responsible for overseeing the offices of Planning, Zoning, Building and Code Enforcement. The duties of the Director shall be to:

- (a) Direct the Town Planner, the Zoning Official, the Building Official and the Property Maintenance Code Official**
- (b) Enforce the town codes and ordinances within the**

purview of the Department;

(c) Administer grants

(d) Shall do other tasks as needed and requested by the Town Manager.

12-4-2 Town Planner

There shall be a Town Planner, who shall be appointed by the Town Manager, and who shall report to the Director of Development Services. The Town Planner shall assist applicants proceeding before the Planning Board to assure that the proceedings are efficient and thorough. The Town Planner shall have the authority to make administrative subdivision review and approval and shall have such other authority as provided by statute and ordinance.

12-4-3 Zoning Official

There shall be a Zoning Official, who shall be appointed by the Town Manager, and who shall report to the Director of Development Services. The Zoning Official shall be responsible for zoning determinations, conducting investigations to ascertain compliance with Zoning Ordinances and to recommend actions to enforce the same to the Director.

12-4-4 Property Maintenance Code

There shall be a Property Maintenance Code Official, who shall be appointed by the Town Manager, and who shall report to the Director of Development Services. The Property Maintenance Code Official shall review all concerns raised by individuals and the public relating to the condition and habitability of buildings and structures used for human habitation. They shall have the authority to conduct investigations and inspections to ascertain compliance with the State of Rhode Island Property Maintenance Code and such other statutes and ordinances establishing minimum conditions permitting habitability and to recommend actions to enforce the same to the Director.

12-4-5 Building Official.

There shall be a Building Official and such other inspectors as may be required, who shall be appointed by the Manager, and who shall report to the Director of Development Services. The Building Official shall review all concerns raised by town officials and the public relating to the compliance of buildings and structures and accessory uses, whether residential or otherwise, with the statutes of the State of Rhode Island, codes and ordinances of the Town of Westerly and, whenever necessary, to recommend actions to enforce the same to the Director. It shall be the duty of the Building Official to:

(a) Issue all building and other such permits in accordance with ordinances passed by the Council

(b) **Maintain a record of all business transacted by him in the course of his duties and to turn over to the Director of Finance forthwith all fees collected by said office.**

(c) **Act as the Fence Viewer for the Town.**

(d) **Have charge of the enforcement of building and such other ordinance relating thereto as may be ordained by the Council and to institute legal proceedings, both civil and criminal on behalf of the Town for violation of building, plumbing, drainage, electrical, and other similar ordinances or until such time as other inspectors are established by ordinance.**

The motion **that Chapter 4-Department of Development Services will be adopted into the Charter** was approved by a 7-2 vote. In addition there was a discussion that the duties of the Director of Development Services should not be restrictive. The Commission voted unanimously to add to 12-4-1 under **duties (d) Shall do other tasks needed and requested by the Town Manager.** That has been added in the text above.

At a later meeting there was an attempt to remove the Department of Development Services from our recommendations. There were members who stated that the department was not set up properly and was not effective. Others countered that the department would be more effective by placing it in the Charter and would be helpful to the Town going forward. The motion to rescind was defeated by a 2-7 vote.

SCHOOL COMMITTEE VACANCIES

The Commission discussed changes in the appointment of vacancies on the School Committee. The current charter indicates vacancies are appointed by the Town Council until the next regular Town election:

11-1-3 Vacancies

Any vacancy in the membership of the School Committee shall be filled by a majority of the whole number of members of the Council until the next regular Town election when the office shall be filled for the unexpired term thereof.

The discussion centered on whether the School Committee should fill its own vacancies. The previous Charter Commission considered this and recommended no changes. Members of this 2016 Commission considered such things as the input of the Town Solicitor that the Council has authority over all other bodies. Another thought was that the School Committee has the best knowledge as to their needs. A motion was put forth and seconded as follows:

Section 11-1-3 read “any vacancy in the membership of the School Committee shall be filled by a majority of the whole number of members of the School Committee until the next regular Town election when the office shall be filled for the unexpired term thereof.

After much discussion and consideration the motion was defeated by a 2-6 vote. Those voting against the motion were satisfied with the language of the present Charter, consistent with Rhode Island General Law, Title 16, EDUCATION, Section 16-2-5.

SCHOOL COMMITTEE TERMS

The Commission felt that term limits should apply to the School Committee. The following motion was passed unanimously:

11-1-1 School Committee

Replace entire paragraph and replace with following text:

The School Committee shall consist of seven (7) members elected at large to serve a term of four (4) years and until each one's successor is elected and qualified. Members shall be elected in staggered fashion, and no member shall serve more than two (2) consecutive terms. ~~Three (3) members shall be elected at the first election after the adoption of this provision, two (2) members for four (4) year terms and one (1) member for a two (2) year term. Three (3) members shall be elected in 1978 and at regular biennial elections every fourth year thereafter. Four (4) members shall be elected in 1980 and at regular biennial elections every fourth year thereafter. All members of the School Committee in office shall continue in said positions until the expiration of the terms for which they were elected.~~

The section with lines through it is no longer relevant and is therefore eliminated. This addresses the recommendation of the Committee that no member shall serve more than two consecutive terms.

INITIATIVE AND REFERENDUM

The Commission took up the question of whether a new initiative and referendum provision should be placed in the charter. This would provide the citizens of Westerly the ability to have a say in certain laws and ordinances, especially if they felt the Council was not responding to their needs. In this case we used a neighboring community's charter and adopted it with some minor changes in nomenclature. The motion was put forth and seconded to recommend a Voter Initiative and Referendum clause into the WTC as follows:

VOTER INITIATIVE AND REFERENDUM The Commission felt the initiative and referendum provision would give the citizens some control over legislation. While there was awareness that the act would not be easy, it was felt it allowed for an important avenue for the citizens. The above recommendation was approved unanimously.

General provisions:

In order to preserve voter participation in the town government of Westerly, and to provide for legislative checks and balances, there are hereby established procedures whereby the qualified voters may (by petition) initiate legislative proposals for consideration by the town council and the town electorate. The process shall permit the voters to enact and/or rescind town laws, regulations,

ordinances and resolutions. The right of voter initiative and referendum shall provide the electorate with all the legislative powers now vested in the council by this Charter.

However, any proposed legislation which is prohibited by the State Constitution, Federal Constitution, state laws, federal laws or recognized judicial decisions interpreting state or federal law are excepted from the provisions of this chapter.

Each petition shall be limited to one (1) issue.

Initiative petition:

All proposed legislation shall be submitted to the town council by petition signed by qualified electors of the town of Westerly equal in number to at least twelve percent (12%) of the number of voters in the last regularly scheduled general election in town of Westerly, however, in no event shall the required number of signatures be less than seven hundred fifty (750).

When the town council receives a petition, duly certified as provided in the next section (Filing of Petitions) hereof, the accompanying proposed legislation shall be placed on the council agenda for a final vote within forty-five (45) days following the council's receipt of said petition. If within this time, the council fails to act upon said legislation, rejects said legislation or enacts said legislation in materially different form, said legislation as originally proposed, shall be submitted to the electorate of the Town of Westerly on referendum ballot at the next regularly scheduled general election.

Filing of Petitions; validity:

The town clerk shall receive all voter-initiated petitions for certification. A true copy of each petition shall be filed with the town clerk and shall be stamped "Filed" with the time and date of filing indicated.

The town clerk shall thereupon immediately forward a copy of each petition to the town solicitor for legal review. Within fourteen (14) days of the date of filing the town solicitor shall forward to the town council a written opinion as to the legality of the proposed petition. At the next regularly scheduled town council meeting, the town council will make a determination as to the validity of the petition. If the council determines that the proposed petition is invalid because it conflicts with the Federal or State Constitutions, federal or state law or recognized judicial decisions interpreting federal or state law, the said petition shall be marked "INVALID" by the town clerk. If the town council shall determine that the proposed petition is valid then the town clerk shall stamp the petition "ACCEPTED" with the time and date of acceptance noted thereupon.

In the event a petition is marked invalid the remedy of the petition's authors shall be through the filing of a complaint for judicial relief.

- Referendum ballot.

Any properly certified voter-initiated petition which the town council has failed to

act upon, rejected, or passed in a materially altered form shall be submitted to the electorate on referendum ballot at the next regularly scheduled general election. The ballot shall contain the language of the proposed legislation, as originally presented, with provision for voter approval or rejection by the choice of the words YES or NO. The full text of the proposed legislation shall be posted for public examination for a minimum period of fourteen (14) days and shall be advertised in a newspaper of general circulation in the Town of Westerly at least twice prior to the scheduled election.

Enactment and Repeal.

Any law, resolution, ordinance, amendment or other action enacted by the initiative process shall only be repealed or amended by the initiative process.

DEPARTMENT OF PUBLIC WORKS

The organization of the Department of Public Works presently identifies the Director of Public Works to be either the Town Manager or their designee. There was feeling the existing departmental organization was working against the Town. To remedy this situation the following motion was proposed:

To revise the text of 10-1-1 [in the present Town Charter Organization] to be “there shall be a Department of Public Works, the head of which shall be the Director of Public Works who shall be appointed by the Town Manager. He shall be responsible for the efficient operation of all of the activities of the Departments of Public Works. The further organization of the Department into separate divisions of offices shall be made by the Council on recommendation of the Manager.

Discussion of this motion included the fact that it creates an added expense for the Town and the position lacked defined qualifications. After discussion and consideration the motion was approved by a 6-1 vote.

CHAPTER 1 **TOWN SOLICITOR**

Town staff had proposed a change to Section 13-1-1, Solicitor and Appointment. The present Charter reads as follows:

There shall be a Town Solicitor who shall be appointed for an indefinite term. The Solicitor shall not be discharged, except upon a majority vote of the Council. Assistant Town Solicitors shall be appointed by the Council, if necessary, and shall serve at the pleasure of the Council.

The Recommendation by the Town Staff was to change this section as follows:

The Town Solicitor shall be appointed by the Council upon formal application, upon the basis of his qualifications, and after a merit interview with the Council to serve for an indefinite term. Assistant Town Solicitors shall be appointed by the Council as set forth within, to serve for a term concurrent with that of the Council and until their successors are appointed and qualified.

The above was put into a motion and seconded and passed unanimously. The Commission recommends Section 13-1-1 should read as is in bold print above.

Section 13-1-4, Duties of the Solicitor, was discussed by the Commission. While some consideration was given to possibly increasing the duties of the position of Solicitor, it was considered important to specifically define the duties of the Town Solicitor. The Commission considered such areas as: acting on behalf of the Town in disputes, coordinating with other attorneys or specialists, calculating claims and damages, protecting individual rights, and fair and equitable treatment. After much consideration the following motion was approved unanimously (two members absent) to be included in Section 13-1-4 as (c.):

(c) Once qualified, solicitors can work in private practice, in local or in the court service. The actual work carried out varies depending on the setting, the Solicitor's specialist area and the nature of the case. In general however, tasks can include taking the Town Council's instructions, drafting documents, letters and contracts tailored to the needs of the Town of Westerly and the Town Council, negotiating together with the Town Council and other professionals and/or organizations to secure agreed objectives, supervising the implementation of agreements, coordinating the work of all parties involved, including Town solicitors who are assigned to various Town Board, and instructing other attorneys or specialist advocates to appear in court for the Town in complex matters and disputes, arranging and attending further Town Council meetings where necessary to progress with the case and finalize documentation, protecting the rights of individuals to receive fair and equitable treatment as prescribed under the law and, in his or her capacity as Town Solicitor, his or her role is advisory except that, as an Officer of the Court, the Town Solicitor must take the appropriate action when he or she becomes aware of, has knowledge of, or otherwise observes a violation of federal law, State statute, Town ordinance and Town Charter.

After consultation with the Town Solicitor, the Commission took the above motion into consideration once again. When the Commission placed the term **"individuals"** into this motion they were referring to appointments to Boards, Committees and Commissions along with employees and potential employees. However, the Town Solicitor had concerns that it could be interpreted as being all individual citizens. He pointed out that he represents the Town, not individual citizens. After considering this, the Commission approved unanimously the following motion:

To amend section 13-1-4 Duties [Solicitor] (passed at our April 20, 2016 meeting) to delete the words "protecting the rights of individuals to receive fair and equitable treatment as prescribed under the law" and to add at the end, the words "subject to and only insofar as such duties are not inconsistent with the Solicitor's obligations as set forth by the Rhode Island Supreme Court Rules of Professional Responsibility."

The present Charter does not provide a requirement for the Town Solicitor to have a degree from an accredited law school. It was also discussed that it would be important for the Solicitor to have legal experience relative to the State of Rhode Island. The following motion was passed unanimously to add to 13-1-2, Qualifications:

The Solicitor and Assistant Solicitors shall be graduates of an accredited law school

and who have been in practice in the State of Rhode Island for a minimum of five (5) years.”

OTHER DEPARTMENTS, BOARDS AND OFFICIALS

Chapter 1 **Town Solicitor**

The Commission discussed the filing of legal opinions. Although we were informed that legal opinions were filed through the Town Clerk’s office, some were given verbally. It was felt a formal procedure should be established. A motion was made and seconded as follows:

To revise 13-1-5 Opinions as “...shall be filed with the Town Clerk in accordance with proscribed procedures.”

The motion was adopted unanimously. The Commission emphasized that the citizens should not have direct access to the Town Solicitor. That position serves as an advisor to all Town departments.

CHAPTER III **OTHER OFFICIALS**

13-3-6, Advisory Boards or Commissions addressed boards and commissions, but did not include committees. This was considered an oversight. The following motion to amend 13-3-6 was voted unanimously:

Amend 13-3-6 to include the word “committee” so that it reads “advisory boards, commissions or committees.”

DEPARTMENT OF PUBLIC SAFETY

The Commission discussed current environmental protection enforcement under a Chief of Environmental Protection and Public Welfare. There was some feeling that there was a lack of enforcement resulting in danger to the public welfare, including air and water quality. It was agreed that local ordinances would be necessary before we could have better enforcement. Reference was made to citizen involvement to force this issue.

A motion was made and seconded as follows:

To establish a Chief of Environment Protection and Public Welfare under Public Safety in the Town Charter.

The motion was voted 3-3-1. There was one abstention. Therefore, the motion was not approved. There was feeling that there was a lack of ordinances to enforce, making the creation of such a position useless. There was reference to the fact that there was lack of discussion of environmental protection in the Town Charter.

This topic was taken up again at a later meeting.

The Commission once again discussed the possible addition of a Department of

Environmental Safety to the Charter at a subsequent meeting. This department would include an Environmental Safety Director. There was some feeling that this department should be structured to “have some teeth” for enforcement. It was felt the goal should be to establish an avenue for environmental safety and public welfare concerns. It was pointed out that there presently are no local ordinances to speak of to enforce, and the State of Rhode Island actually had cognizance over environmental safety.

The recommendation was that this position should be established under Chapter III of the Charter (Other Officials) and have the Council set up the details at a later time by ordinance. The following motion was approved by a 7-1 vote:

To make an addition to the Charter of a Director and Department of Environmental Safety. Powers and duties of the Director shall be as prescribed by law and ordinance and the Director shall be appointed by the Town Manager.

SCHOOL DEPARTMENT

The Commission discussed section 11-1-7, which covers the budget submission of the School Department to the Town Finance Director. It was felt that the school budget had to be in a recognizable format that could be understood and integrated into the Town budget. It was recognized that the present School Committee has confirmed it would work to provide the detail requested from the Board of Finance in future budgets. The Commission approved the following motion by a 6-1-1 vote to change 11-1-7 of the Charter to read:

To include: “The School Committee shall submit a proposed budget in the prescribed format and with line item details as required by the Board of Finance to the Municipal Finance Officer on or before the first Monday of February of each year. The proposed budget shall include line item comparisons to the prior year’s actual and budgeted amounts as well as the actual amounts for the two years prior to the previous year. The allocations of the amounts appropriated shall be determined by the School Committee and be prepared consistent with a Uniform Chart of Accounts (“UCOA”) as promulgated by the Rhode Island Department of Elementary and Secondary Education (“RIDE”).

TOWN ASSESSOR

Discussion concerning sections 8-1-1 through 8-1-4, the Town Assessor and Duties of the Assessor centered on the reality of what is required in contrast to what is presently in the Charter. In order to accomplish the tasks of assessing property the Town must hire a mass appraisal company. It was felt the Charter must reflect this reality, but it must also provide that in the future the situation could change and could be done internally. The following motions were passed unanimously:

8 - 1 - 1 Town Assessor

There shall be a Town Assessor who shall be appointed by the manager. The assessor plans and monitors the appraisal and reappraisal of all taxable and non-taxable

real property located within the corporate limits of the town. The Assessor may be assisted in making such appraisals and reappraisals by mass appraisal companies contracted by the town.

8 - 1 - 2 Duties of Assessor

The Town Assessor shall be responsible for the fixing of assessed valuation for purposes of taxation on all real estate and tangible personal property. The assessor is responsible for the preparation of an assessed roll and a tax prepared by the mass appraisal contractor for the town in the manner provided by law and ordinances.

The Town Assessor shall be responsible for the vetting of the mass appraisal contractors prior to selection by the town. The Assessor shall validate the mass appraisal contractor's computer models and associated algorithms used in the performance of the mass municipal appraisals of the town's real estate for accuracy, validity, and reliability. The Assessor will certify the veracity of the appraisal and reappraisal results provided to the town by the mass appraisal contractor. The Assessor will ensure that the electronically established and maintained grand list held by the contractor is current, accurate, complete and reflects 100% of the fair market value of all taxable and non-taxable real property in town.

There was also a discussion of the requirement that in 8-1-3, Board of Assessment Review—Appointments, Vacancies the Commission should remove the phrase “of which no more than two shall be of the same political party.” Members of this Board generally are registered as a member of a political party. It is assumed that this clause was included in the Charter to prevent one party's total control of the Board. A motion to eliminate this phrase was defeated by a 3-6 vote of the Commission.

TEMPORARY AMMENDMENTS

In the present charter there is a note that all references in the charter are gender neutral. However, the references are still in the context of the document. The suggestion was discussed that when the Charter was rewritten all pronouns should be made gender neutral. The following motion was approved on a 7-2 vote:

A temporary amendment be added to the Charter that the wording on the Charter be gender-neutral.

CHANGES RECOMMENDED BY STAFF

There were a number of changes to the Charter requested by Westerly Town staff that reflected bringing the Charter into compliance with State statutes or updating functionality. The following changes were approved unanimously by the Commission:

2-8-1 Meetings: Change the wording in 2-8-2 Meetings from “twelve” to “forty-eight” hours according to State law.

3-1-10 Water, Sewer and Any Other Enterprise Fund Budget: To change [the text] from “June” to “May.”

By a 6-2 vote the following motion was approved to be placed in the Charter:

To go to cost accounting and double-entry accrual accounting for enterprise funds.

5-1-3 Procedures: To eliminate 5-1-3 Procedures.

9-1-8 Constables: To delete the partial statement “shall, while on assigned duty, have the powers of regular police officers and”

9-1-9 Suspension and Disciplinary Action: to eliminate “reduce in rank, or suspend and police officer below the rank of Chief. The Chief may” and to add “The disciplinary procedures shall follow Rhode Island General Law, the Law Enforcement Officer’s Bill of Rights, and the Collective Bargaining Agreement.” To the end of the section.

10-1-6 Building Inspector and 10-1-7 Duties and Powers of Building Inspector: To eliminate 10-1-6 Building Inspector and 10-1-7 Duties and Powers of Building Inspector.

Article XII Planning and Zoning Chapter I Planning: To add “Board.” [after title Planning].

13-3-4 Department of Public Welfare: to delete 13-3-4 Department of Public Welfare.

13-4-1 Selection: To add “to serve for a term concurrent with the Council upon reorganization and until that person’s successor is appointed and qualified.”

(Note: this wording brought 13-4-1 in line with the recommendation that Council terms be staggered.)

13-2-1 Selection and Term: To add [“to serve for a term concurrent with the Council upon reorganization and until that person’s successor is appointed and qualified.”]

14-1-2 Sunday Activities: To insert [“with state law and”] following “...in accordance.”

14-1-6 Alcoholic Licenses: This should be worded as follows because other types of licenses are also handled: “All licenses for the sale of alcoholic beverages shall be granted by the License Commissioners in accordance with Rhode Island General Laws.”

14-1-8 Board Clerk: To add: 14-1-8 Board Clerk with the text “The Town Clerk shall be the clerk of the Licensing Board”

15-1-7 Publicity of Records: To delete “provided, however, that the foregoing

provision shall not apply to the following” under 15-1-7 subsection 1 and replace it with “except those records specifically defined as exempt from public access pursuant to Chapter 38-2 of the Rhode Island General Law of federal law” and to eliminate subsections 2,3 and 4.”

15-1-7(b) Under 15-1-7(b) subsection 1, to delete “future.”

15-1-7 (b8) to add “in accordance with the Rhode Island Open Meetings Act”

15-2-2 Procedure for Adoption of Ordinances: To delete “together with a notice of its adoption” and add in its place “on the Town’s website and, when requested, copies shall be made available by the Town Clerk for the use of interested persons.”

Article XVI Temporary Provisions: To remove Article XVI Temporary Provisions.

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